

# House Study Bill 187 - Introduced

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL BY  
CHAIRPERSON COWNIE)

## A BILL FOR

1 An Act relating to matters under the purview of the alcoholic  
2 beverages division of the department of commerce, including  
3 alcoholic beverage permits and licenses and administrative  
4 provisions, modifying fees, and including effective date  
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, Code 2011, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 014A. "*Grocery store*" means any retail  
4 establishment, the business of which consists of the sale of  
5 food, food products, or beverages for consumption off the  
6 premises.

7 NEW SUBSECTION. 022A. "*Micro-distilled spirits*" means  
8 distilled spirits fermented, distilled, or, for a period of  
9 two years, barrel matured on the licensed premises of the  
10 micro-distillery where fermented, distilled, or matured.  
11 "*Micro-distilled spirits*" also includes blended or mixed spirits  
12 comprised solely of spirits fermented, distilled, or, for a  
13 period of two years, barrel matured at a micro-distillery.

14 NEW SUBSECTION. 022B. "*Micro-distillery*" means a business  
15 with an operational still which, combining all production  
16 facilities of the business, produces and manufactures less than  
17 fifty thousand proof gallons of distilled spirits on an annual  
18 basis.

19 NEW SUBSECTION. 26A. "*Pharmacy*" means a drug store in  
20 which drugs and medicines are exposed for sale and sold at  
21 retail, or in which prescriptions of licensed physicians and  
22 surgeons, dentists, or veterinarians are compounded and sold by  
23 a registered pharmacist.

24 NEW SUBSECTION. 32A. "*School*" means a public or private  
25 school or that portion of a public or private school which  
26 provides facilities for teaching any grade from kindergarten  
27 through grade twelve.

28 Sec. 2. Section 123.3, subsection 14A, Code 2011, is amended  
29 to read as follows:

30 14A. "*High alcoholic content beer*" means beer which contains  
31 more than five percent of alcohol by weight, but not more  
32 than twelve percent of alcohol by weight, that is made by the  
33 fermentation of an infusion in potable water of barley, malt,  
34 and hops, with or without unmalted grains or decorticated and  
35 degerminated grains. Not more than one and five-tenths percent

1 of the volume of a "high alcoholic content beer" may consist  
2 of alcohol derived from added flavors and other nonbeverage  
3 ingredients containing alcohol. The added flavors and other  
4 nonbeverage ingredients may not include added caffeine or other  
5 added stimulants including but not limited to guarana, ginseng,  
6 and taurine.

7 Sec. 3. Section 123.3, subsection 22A, Code 2011, is amended  
8 to read as follows:

9 22A. "*Native wine*" means wine manufactured ~~in this state~~  
10 pursuant to section 123.56 by a manufacturer of native wine.

11 Sec. 4. Section 123.9, Code 2011, is amended to read as  
12 follows:

13 **123.9 Commission meetings.**

14 The commission shall meet on or before July 1 of each year  
15 for the purpose of selecting one of its members as chairperson,  
16 ~~which member shall serve in such capacity~~ for the succeeding  
17 year. The commission shall otherwise meet quarterly or at  
18 the call of the chairperson or administrator or, when any  
19 three members file ~~with the chairperson~~ a written request  
20 for a meeting. Written notice of the time and place of each  
21 meeting shall be given to each member of the commission. All  
22 ~~commission meetings shall be held within the state.~~ A majority  
23 of the commission members shall constitute a quorum.

24 Sec. 5. Section 123.30, subsection 3, paragraph e,  
25 subparagraph (1), Code 2011, is amended to read as follows:

26 (1) A class "E" liquor control license may be issued and  
27 shall authorize the holder to purchase alcoholic liquor from  
28 the division only and high alcoholic content beer from a class  
29 "AA" beer permittee only and to sell the alcoholic liquor and  
30 high alcoholic content beer to patrons for consumption off  
31 the licensed premises and to other liquor control licensees.  
32 ~~A class "E" license shall not be issued to premises at which~~  
33 ~~gasoline is sold.~~ A holder of a class "E" liquor control  
34 license may hold other retail liquor control licenses or  
35 retail wine or beer permits, but the premises licensed under a

1 class "E" liquor control license shall be separate from other  
2 licensed premises, though the separate premises may have a  
3 common entrance. However, the holder of a class "E" liquor  
4 control license may also hold a class "B" wine or class "C"  
5 beer permit or both for the premises licensed under a class "E"  
6 liquor control license.

7 Sec. 6. Section 123.31, unnumbered paragraph 1, Code 2011,  
8 is amended to read as follows:

9 ~~Except as otherwise provided in section 123.35, verified~~  
10 Verified applications for the original issuance or the renewal  
11 of liquor control licenses shall be filed at the time and in  
12 the number of copies as the administrator shall prescribe, on  
13 forms prescribed by the administrator, and shall set forth  
14 under oath the following information:

15 Sec. 7. Section 123.36, subsection 8, Code 2011, is amended  
16 to read as follows:

17 8. a. Class "E" liquor control license, a sum determined  
18 as follows:

19 (1) For licensed premises at which gasoline is not sold, a  
20 sum of not less than seven hundred and fifty dollars, and not  
21 more than seven thousand five hundred dollars as determined  
22 on a sliding scale as established by the division taking into  
23 account the factors of square footage of the licensed premises,  
24 the location of the licensed premises, and the population of  
25 the area of the location of the licensed premises.

26 (2) For licensed premises at which gasoline is sold, a sum  
27 equal to the following:

28 (a) For premises located within the corporate limits of a  
29 city with a population of less than one thousand five hundred,  
30 three thousand five hundred dollars.

31 (b) For premises located within the corporate limits of a  
32 city with a population of at least one thousand five hundred  
33 but less than ten thousand, five thousand dollars.

34 (c) For premises located within the corporate limits of a  
35 city with a population of ten thousand population or more, the

1 greater of five thousand dollars or the amount that would be  
2 established pursuant to subparagraph (1) if gasoline were not  
3 sold at the premises.

4 (d) For premises located outside the corporate limits of  
5 any city, a sum equal to that charged in the incorporated city  
6 located nearest the premises to be licensed. If there is doubt  
7 as to which of two or more differing corporate limits is the  
8 nearest, the license fee which is the largest shall prevail.  
9 However, if the premises is located in an unincorporated town,  
10 for purposes of this subparagraph, the unincorporated town  
11 shall be treated as if it is a city.

12 b. Notwithstanding subsection 5, the holder of a class  
13 "E" liquor control license may sell alcoholic liquor for  
14 consumption off the licensed premises on Sunday subject to  
15 section 123.49, subsection 2, paragraph "b".

16 Sec. 8. Section 123.43A, subsection 1, Code 2011, is amended  
17 by striking the subsection.

18 Sec. 9. Section 123.46, subsection 1, paragraph d, Code  
19 2011, is amended by striking the paragraph.

20 Sec. 10. Section 123.129, subsection 1, Code 2011, is  
21 amended by striking the subsection.

22 Sec. 11. Section 123.134, subsection 5, Code 2011, is  
23 amended by striking the subsection.

24 Sec. 12. Section 123.141, Code 2011, is amended to read as  
25 follows:

26 **123.141 Keeping liquor where beer is sold.**

27 No alcoholic liquor for beverage purposes shall be used,  
28 or kept for any purpose in the place of business of class "B"  
29 permittees, or on the premises of such class "B" permittees, at  
30 any time. A violation of any provision of this section shall  
31 be grounds for suspension or revocation of the permit pursuant  
32 to section 123.50, subsection 3. This section shall not apply  
33 in any manner or in any way, ~~to any railway car of any dining~~  
34 ~~ear company, sleeping car company, railroad company or railway~~  
35 ~~company, having a special class "B" permit,~~ to the premises

1 of any hotel or motel for which a class "B" permit has been  
2 issued, other than that part of such premises regularly used by  
3 the hotel or motel for the principal purpose of selling beer  
4 or food to the general public; or to drug stores regularly and  
5 continuously employing a registered pharmacist, from having  
6 alcohol in stock for medicinal and compounding purposes.

7 Sec. 13. Section 123.142, unnumbered paragraph 1, Code  
8 2011, is amended to read as follows:

9 It is unlawful for the holder of a class "B" or class "C"  
10 permit issued under this chapter to sell beer, except beer  
11 brewed on the premises covered by a special class "A" permit or  
12 beer purchased from a person holding a class "A" permit issued  
13 in accordance with this chapter, and on which the tax provided  
14 in section 123.136 has been paid. However, this section does  
15 not apply to ~~the holders of special class "B" permits issued~~  
16 ~~under section 123.133 for sales in cars engaged in interstate~~  
17 ~~commerce nor to class "D" liquor control licensees as provided~~  
18 in this chapter.

19 Sec. 14. REPEAL. Sections 123.35, 123.133, 123.153,  
20 123.154, 123.155, 123.156, 123.157, 123.158, 123.159, 123.160,  
21 123.161, and 123.162, Code 2011, are repealed.

22 Sec. 15. EFFECTIVE UPON ENACTMENT. The section of this  
23 Act amending section 123.3, subsection 14A, regarding the  
24 definition of high alcoholic content beer, being deemed of  
25 immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill makes several changes regarding matters under the  
28 purview of the alcoholic beverages division of the department  
29 of commerce.

30 The bill deletes definitions of grocery store,  
31 micro-distillery, micro-distilled spirits, pharmacy, and school  
32 contained in respective provisions within Code chapter 123, and  
33 inserts the definitions into the general definitions section  
34 for the chapter in Code section 123.3. The bill modifies the  
35 definition of native wine contained within Code section 123.3

1 to remove reference to wine manufactured "in this state",  
2 instead providing that "native wine" means wine manufactured  
3 pursuant to Code section 123.56 by a manufacturer of native  
4 wine.

5 The bill modifies the definition of high alcoholic content  
6 beer to specify that not more than 1.5 percent of the volume of  
7 such beer may consist of alcohol derived from added flavors and  
8 other nonbeverage ingredients containing alcohol, and that the  
9 added flavors and ingredients may not include added caffeine  
10 or other specified added stimulants. The bill makes this  
11 modification effective upon enactment.

12 The bill amends provisions governing meetings of the  
13 alcoholic beverages commission, providing that the commission  
14 shall meet to elect a chairperson on or before July 1 annually,  
15 rather than on July 1 under current law. The bill provides  
16 that the commission shall otherwise meet quarterly, or at any  
17 time called by the administrator of the division in addition  
18 to the chairperson. The bill deletes a current provision  
19 prohibiting commission meetings from being held outside of the  
20 state.

21 The bill removes a current restriction prohibiting the  
22 issuance of a class "E" liquor control license by the alcoholic  
23 beverages division of the department of commerce to applicants  
24 for premises at which gasoline is sold. A class "E" liquor  
25 control license authorizes the holder to purchase alcoholic  
26 liquor from the division and to sell the liquor to patrons  
27 for consumption off the licensed premises and to other liquor  
28 control licensees.

29 The bill modifies fees currently applicable to class "E"  
30 liquor control licensees, depending upon whether gasoline is  
31 sold on the licensed premises. The bill provides that if  
32 gasoline is not sold on the premises, the current formula for  
33 determining fees set forth in Code section 123.36 for class  
34 "E" licensees will be applicable. That formula prescribes a  
35 fee in an amount varying between \$750 and \$7,500 on a sliding

1 scale basis, determined by the alcoholic beverages division,  
2 taking into account the factors of square footage of the  
3 licensed premises, the location of the licensed premises, and  
4 the population of the area of the location of the licensed  
5 premises. The bill provides that in the event that gasoline  
6 is sold on the premises, a variable fee will be applied based  
7 upon the population of the corporate limits within which the  
8 premises is located. Specifically, if the premises is located  
9 within the corporate limits of a city of less than 1,500  
10 people, the fee is \$3,500; if within the corporate limits of  
11 a city of at least 1,500 but less than 10,000 people, the fee  
12 is \$5,000; and if within the corporate limits of a city of  
13 10,000 people or more, the fee is the greater of \$5,000 or the  
14 amount that would otherwise be applied if gasoline were not  
15 sold at the premises. The bill further provides that if the  
16 premises is located outside the corporate limits of a city,  
17 the fee will be equal to that charged in the incorporated city  
18 located nearest the premises, and in case there is doubt as to  
19 which of two or more differing corporate limits is the nearest,  
20 the largest fee will apply. If the premises is located in an  
21 unincorporated town, the bill states that the unincorporated  
22 town shall be treated as if it is a city.

23 The bill repeals Code section 123.35, which had prescribed  
24 simplified application forms for the renewal of liquor control  
25 licenses, wine permits, and beer permits when qualifications  
26 had not changed since the license or permit was originally  
27 issued. The bill also repeals Code section 123.133 providing  
28 for the issuance of a special class "B" permit for the sale  
29 of beer on trains, and deletes a provision which currently  
30 states that Code section 123.141, regarding keeping liquor at  
31 a location where beer is sold, shall not be applicable to any  
32 railway car of any dining car company, sleeping car company,  
33 railroad company, or railway company in possession of a special  
34 class "B" beer permit. The bill makes conforming changes  
35 consistent with the repeal of these Code sections.

1     The bill additionally repeals Code sections 123.153 through  
2 123.162, comprising division IV of Code chapter 123, entitled  
3 "Warehouse Project". The provisions allowed the alcoholic  
4 beverages commission to issue revenue bonds for a one-time  
5 warehouse project.